

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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	)	
Fair Isaac Corporation,	)	File No. 16-cv-1054 (DTS)
a Delaware Corporation,	)	
	)	
Plaintiff,	)	
	)	
v.	)	
	)	
Federal Insurance Company,	)	Courtroom 14W
an Indiana corporation,	)	Minneapolis, Minnesota
and ACE American Insurance	)	Friday, March 10, 2023
Company, a Pennsylvania	)	9:08 a.m.
Corporation,	)	
	)	
Defendants.	)	
	)	

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BEFORE THE HONORABLE DAVID T. SCHULTZ  
UNITED STATES DISTRICT COURT MAGISTRATE JUDGE

**(JURY TRIAL PROCEEDINGS - VOLUME XV)**  
**(CONFERENCE WITH ATTORNEYS)**

Proceedings recorded by mechanical stenography;  
transcript produced by computer.

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APPEARANCES:

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**P R O C E E D I N G S**

**I N O P E N C O U R T**

THE COURT: Good morning, everyone. Please be seated.

All right. We are on the record in the matter of FICO versus Federal, et al., Civil Number 16-1054.

Counsel for the plaintiff, if you will note your appearances, please.

MR. HINDERAKER: Your Honor, Allen Hinderaker and Heather Kliebenstein from Merchant & Gould and Jim Woodward from FICO.

THE COURT: All right. Good morning to all of you.

Counsel for Federal, if you will note your appearances.

MS. GODESKY: Good morning, Your Honor. Leah Godesky from O'Melveny for the defendants.

MS. JANUS: Leah Janus and Terry Fleming from Fredrikson & Byron for the defendants.

THE COURT: All right. Thank you. Good morning to the three of you and people in the gallery.

Thanks for coming here this morning. I wanted to let you know what I was going to do.

I am going to accept the verdict on disgorgement and enter judgment on the verdict today. That will begin

1 the clock for post-trial motions, et cetera.

2 I told you that I would exercise my own  
3 independent judgment on the issue of disgorgement, and I  
4 have. I have been considering the issue, well, simply  
5 stated, since the motion to strike the jury, but then more  
6 intensively since the motion to bifurcate and certainly with  
7 the JMOL and hearing the evidence.

8 I, nonetheless, wanted the jury's input so that I  
9 could certainly reexamine my own decision, should that be  
10 necessary; but I'm persuaded and I was persuaded based on  
11 the law and the evidence at trial that this is not only a  
12 proper result, I am persuaded that it is the proper result.

13 So that's what I'm going to do. I don't want to  
14 spend time and resources of the parties having you  
15 extensively brief an issue that I know how I will rule on it  
16 anyway. So that's why I called you in here this morning.  
17 That's what I'm going to do. And that will, as I said,  
18 start your clock running.

19 While you're all here, I also want to put this out  
20 there for your consideration. Sometimes parties obviously  
21 negotiate potential settlements after a trial. If the  
22 parties decide they want to do that, and if the parties  
23 decide they want to utilize the services of a magistrate  
24 judge here, I will facilitate that happening. It wouldn't  
25 be me; but if the parties met and decided they thought a

1 particular magistrate judge in this district would be well  
2 suited to that, we would make sure you got in front of that  
3 magistrate judge. But, of course, you know, that's all  
4 entirely up to the parties.

5 So with that, I'll just ask if there are any  
6 questions. Mr. Hinderaker?

7 MR. HINDERAKER: No questions from the plaintiff,  
8 Your Honor.

9 THE COURT: All right. Well, maybe there is one.

10 MR. HINDERAKER: Actually, with the judgment  
11 entered and the clock running, you know, obviously there  
12 will be the briefing that follows from that, and I think the  
13 particular issue that I was just alerted to will be included  
14 in that, in that briefing. So for today and we understand  
15 your decision --

16 THE COURT: Understood.

17 MR. HINDERAKER: -- I don't think there's anything  
18 to be brought up now.

19 THE COURT: Okay. Very well. Thank you.

20 Ms. Godesky, any questions or needed  
21 clarification?

22 MS. GODESKY: The only question we have at this  
23 point, Your Honor, would be whether we could get a modest  
24 extension of the deadline for a JNOV motion.

25 THE COURT: What amount of time are you seeking?

1 MS. GODESKY: An extra two weeks.

2 THE COURT: I will, yes, give both parties an  
3 extra two weeks.

4 MS. GODESKY: Okay. Thank you.

5 THE COURT: So that would be 42 days, correct?  
6 That's my calculation.

7 MS. GODESKY: I think that's right, mm-hmm.

8 THE COURT: Okay. I will put something on the  
9 record or on the ECF setting a deadline by which you should  
10 file any such motions.

11 Yes, Mr. Hinderaker.

12 MR. HINDERAKER: And then with respect to  
13 attorneys fees, prejudgment interest and so forth, you know,  
14 I think the rule is a 14-day clock. If there's an extension  
15 on this, can we get those dates extended as well?

16 THE COURT: Yes. We'll make them all 42 days, and  
17 we'll go from there. Okay?

18 MR. HINDERAKER: Very good.

19 THE COURT: Okay. Thank you, everyone.

20 MR. HINDERAKER: Thank you.

21 MS. GODESKY: Thank you.

22 (Court adjourned at 9:14 a.m., 03-10-2023.)

23 I, Renee A. Rogge, certify that the foregoing is a  
24 correct transcript from the record of proceedings in the  
above-entitled matter.

25 Certified by: /s/Renee A. Rogge  
Renee A. Rogge, RMR-CRR